

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5653 OF 1991

For Approval and Signature:

Hon'ble MR. JUSTICE KUNDAN SINGH.

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -
3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?
-

G.J. DAVE,

Versus

BARODA MUNICIPAL CORPORATION.

Appearance:

MR RN SINGH for Petitioner
MR PRAVNAV G. DESAI FOR Respondent.

CORAM : MR. JUSTICE KUNDAN SINGH.

Date of decision: 09/03/99

ORAL JUDGEMENT

This petition has been filed for a direction to the respondents to pay the petitioner the amount of Rs. 15,774/- by way of House Rent Allowance and also Rs. 5,500/- as Compensatory Local Allowance.

2. The petitioner was working as a P.A. to Health Officer cum - Sanitary Inspector in the Health Department

of the respondent - Corporation. The petitioner was suspended and House Rent Allowance and Compensatory Local Allowance for the period commencing from 1-1-86 to 30-12-89 was withheld by the Corporation on the basis of interpretation of the Rules applicable to the petitioner.

3. Heard the learned counsel for the parties.

4. Learned counsel for the petitioner submitted that the relevant Rule has been carefully considered and this Court has taken a view in Special Civil Application No. 6996/97 on 2-7-98 that the petitioner of that petition was entitled for House Rent Allowance and Compensatory Local Allowance during the suspension period and condition no. 4 in the order of the suspension dated 28-6-1994 provides for nonpayment of House Rent Allowance and Compensatory Local Allowance after four months of suspension was quashed and set aside by this Court and in that petition the respondent was directed to pay the amount of House Rent Allowance and Compensatory Local Allowance together with 18% p.a. interest which was held and to continue to pay during the period of suspension. Of course, it is also pointed out that Letters Patent Appeal No. 975/98 has been preferred against the judgment and order passed in Spl.C.A. No. 6996/97 and this Court has refused to stay the operation of the order passed by this Court in that petition and specific direction has been given to the respondents to pay the amount of House Rent Allowance and Compensatory Local Allowance and that amount would be subject to the result of the decision in Letters Patent Appeal.

5. In the similar manner learned counsel for the petitioner urged that in the present case the amount of House Rent Allowance and Compensatory Local Allowance withheld by the Corporation for the period commencing from 1-1-1986 to 30-12-1989 be paid to the petitioner subject to the result of the Letters Patent Appeal No. 975/98.

6. Accordingly, the present petition is disposed of finally with the direction to the respondent Corporation to pay House Rent Allowance and Compensatory Local Allowance which was withheld by the Corporation for the period aforesaid to be calculated in accordance with law, together with 10% p.a. interest within a period of five weeks from the date of presentation of a certified copy of this order. This order will be subject to the result of Letters Patent Appeal No.975/98. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim order, if any, stands vacated.

-0-0-0-0-0-

/JVSatwara/